

ENTERED

February 19, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re BP p.l.c. Securities Litigation

No. 4:10-md-02185

This document relates to:

PEAK6 Capital Management LLC et al.
v. BP p.l.c. et al.

No. 4:15-cv-00865

BP Litigation Recovery I, L.L.C. v. BP
p.l.c. et al.

No. 4:15-cv-01061

BPLR, L.L.C. v. BP p.l.c. et al.

No. 4:15-cv-01059

Honorable Keith P. Ellison

JURY TRIAL DEMANDED

STIPULATION AND ORDER

WHEREAS, a Complaint was filed in the matter *PEAK6 Capital Management LLC et al. v. BP p.l.c. et al.*, No. 4:15-cv-00865 (the “*PEAK6 Action*”), on April 2, 2015, alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78r and 78t(a), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, against Defendants BP p.l.c., BP America, Inc., BP Exploration & Production Inc., Anthony B. Hayward and Douglas J. Suttles;

WHEREAS, a Complaint was filed in each of the matters *BP Litigation Recovery I, L.L.C. v. BP p.l.c. et al.*, No. 4:15-cv-01061 (the “*BP Litigation Recovery I Action*”), and *BPLR, L.L.C. v. BP p.l.c. et al.*, No. 4:15-cv-01059 (the “*BPLR Action*”), on April 23, 2015, alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78r and 78t(a), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5, against Defendants BP p.l.c., BP America, Inc., BP Exploration & Production Inc., Anthony B. Hayward and Douglas J. Suttles;

WHEREAS, on July 31, 2015, Defendants moved to dismiss (i) the Complaints in the *BP Litigation Recovery I* Action and the *BPLR* Action in their entirety pursuant to Rule 12(b)(1) for lack of standing, and (ii) all claims against BP Exploration & Production Inc. and the Section 20(a) claims against Douglas J. Suttles in the *PEAK6* Action, the *BP Litigation Recovery I* Action and the *BPLR* Action (“Defendants’ Motions to Dismiss”);

WHEREAS, on November 23, 2015, this Court heard oral argument on Defendants’ Motions to Dismiss;

WHEREAS, during oral argument on November 23, 2015, this Court dismissed without prejudice Plaintiffs’ claims against BP Exploration and Production, Inc. and granted Plaintiffs’ leave to amend those claims within fifteen days, but reserved decision on the other arguments raised by Defendants in the Motions to Dismiss;

WHEREAS, on December 8, 2015, Plaintiffs filed amended complaints in each of the above-captioned actions (the “First Amended Complaints”) in accordance with the Court’s grant of leave to amend their claims against BP Exploration and Production, Inc.

WHEREAS, on January 4, 2016, the Court issued a Memorandum and Order dismissing without prejudice the April 23, 2015 Complaints in the *BP Litigation Recovery I* Action and the *BPLR* Action for lack of standing, and dismissing without prejudice all claims against BP Exploration and Production, Inc. and the Section 20(a) claim against Douglas Suttles in the April 2, 2015 Complaint in the *PEAK6* Action, and granting Plaintiffs leave to replead;

WHEREAS, on January 19, 2016, Plaintiffs filed Second Amended Complaints in the *BP Litigation Recovery I* and *BPLR* actions (the “Second Amended Complaints”) to address the standing issue,

WHEREAS on January 19, 2016, Plaintiffs sent a letter to the Court explaining how their First Amended Complaints already addressed the dismissal of all claims against BP Exploration and Production, Inc. and the Section 20(a) claims against Douglas Suttles;

WHEREAS, on January 26, 2016, the Court entered a Stipulation and Order granting Defendants until March 4, 2016, to answer, move to dismiss or otherwise respond to the First Amended Complaint in the *PEAK6* Action and the Second Amended Complaints in the *BP Litigation Recovery I* and *BPLR* Actions;

WHEREAS, Defendants have indicated that they intend to move to dismiss the Section 20(a) claim against Douglas Suttles based on their belief that Suttles cannot be held liable under Section 20(a) for statements that he himself made. *See Southland Securities Corp. v. INSPIRE Insurance Solutions, Inc.*, 365 F.3d 353, 384 (5th Cir. 2004);

WHEREAS, in the interests of efficiency and judicial economy, Plaintiffs have agreed to the dismissal of their Section 20(a) claim against Douglas Suttles while expressly preserving and not waiving any rights they have to appeal the dismissal of such claim;

WHEREAS, the parties have conferred about the schedule for Defendants to answer the First Amended Complaint in the *PEAK6* Action and the Second Amended Complaints in the *BP Litigation Recovery I* Action and *BPLR* Action;

THEREFORE, IT IS STIPULATED AND AGREED by and between the undersigned parties that:

1. The Second Cause of Action for violation of Section 20(a) of the Exchange Act in the First Amended Complaint in the *PEAK6* Action and in the Second Amended Complaints in the *BP Litigation Recovery I* and *BPLR* Actions is dismissed as to Defendant Douglas J. Suttles only;

2. Plaintiffs expressly preserve and do not waive any right to appeal the dismissal of such claim against Defendant Douglas J. Suttles;
3. Defendants shall have until April 4, 2016, in which to file their answer to the First Amended Complaint in the *PEAK6* Action and the Second Amended Complaints in the *BP Litigation Recovery I* and *BPLR* Actions.

Dated: February 17, 2016

STIPULATED AND AGREED:

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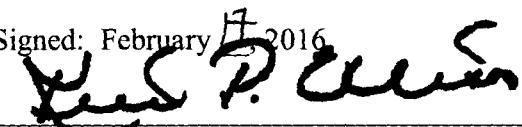
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IT IS SO ORDERED.

Signed: February 17, 2016


HON. KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE